

493.0000 GRANDPARENT-GRANDCHILD TRANSFER

See Change in Ownership

Parent-Child Transfer

[493.0080](#) **Limited Liability Company.** A transfer from grandparents to a limited liability company owned by their grandchildren does not qualify for the grandparent/grandchild exclusion from change in ownership. While legislation does look to the beneficial ownership of property held in trust to determine ownership and eligibility for exclusion, a different approach is taken with respect to transfers by and to limited liability companies. The latter are treated as separate and apart from their owners, and transfers between or among them are excluded only when the transfers result solely in changes in the manner of holding title to the properties transferred. C 2/26/97.

[493.0115](#) **Re-Affirmation of Deed.** A "re-affirmation" of deed recorded after the effective date of the grandparent-grandchild exclusion does not negate an earlier transfer evidenced by a deed recorded before the effective date of the exclusion; nor does it constitute a transfer under Revenue and Taxation Code section 60. Apart from a valid rescission or a rebuttal of the deed presumption, the date of a change in ownership cannot be "undone" or "invalidated." C 10/27/98.

[493.0120](#) **Son-in-Law.** The grandparent-grandchild exclusion from change in ownership is available when all of the parents of the eligible transferees who qualify as the "children" of the grandparents have died or, in the case of a son-in-law, divorced. Thus, the exclusion applies where the parent of the grandchildren has predeceased the grandparents and the former husband/son-in-law was divorced from the deceased child prior to her death.

If the parent of the grandchildren has divorced and later remarried, then her second husband, the grandchildren's stepfather, would be the new son-in-law and, therefore, the "child of the grandparents." In this case, the exclusion would not apply unless the stepfather was also deceased at the time of the transfer. C 2/26/97.

[493.0123](#) **Step Transaction Doctrine.** The statement of legislative intent expressed in section 2 of Chapter 48 of the Statutes of 1987 specifies that the step transaction or substance-over-form doctrine shall not be applied to prevent the application of the parent-child exclusion. This statement of legislative intent is not applicable to transfers between grandparents and grandchildren because there was no grandparent-grandchild exclusion available at the time the statement was written. C 3/10/2000.

[493.0125](#) **Surviving Son- or Daughter-in-Law.** The grandparent-grandchild exclusion from change in ownership is available when both of the parents (the middle generation) of the eligible transferees who are "children" of the grandparents for purposes of the exclusion have died. A "child" includes a surviving son-in-law or daughter-in-law if the marriage between the grandparents' child and the in-law was terminated by death and the in-law has not remarried. Thus, the grandparent-grandchild exclusion will not apply if the surviving in-law/stepparent has not remarried. C 8/16/99.

[493.0130](#)

Trusts. As with transfers of property from a parent to a child, transfers from a grandparent to a grandchild can be excluded from change in ownership when accomplished through a trust and subtrusts, provided that the transfers are not made to a legal entity, such as a LLC, even if it is owned by the grandchild. The grandchild is an eligible transferee, if on the date

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of transfer both parents are deceased or one parent is deceased and the other no longer qualifies as a "child of the grandparents" because of a divorce. C 2/26/97.